

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: DEALER MANAGEMENT
SYSTEMS ANTITRUST LITIGATION**

This Document Relates To:

THE DEALERSHIP CLASS ACTION

MDL No. 2817

Case No. 18-cv-00864

Hon. Robert M. Dow, Jr.

Magistrate Judge Jeffrey T. Gilbert

**DECLARATION OF PEGGY J. WEDGWORTH IN SUPPORT OF
DEALERSHIP COUNTER-DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
ON CDK GLOBAL, LLC'S COUNTERCLAIMS**

I, Peggy J. Wedgworth, Esq., pursuant to 28 U.S.C. § 1746, hereby declare:

1. I am a partner at Milberg Phillips Grossman LLP, and I represent Dealership Class Plaintiffs, including Counter-Defendants ACA Motors, Inc., d/b/a Continental Acura; Baystate Ford Inc.; Cherry Hill Jaguar; Cliff Harris Ford, LLC, d/b/a Warrensburg Ford; Continental Autos, Inc., d/b/a Continental Toyota; Continental Classic Motors, Inc., d/b/a Continental Autosports; 5800 Countryside, LLC, d/b/a Continental Mitsubishi; HDA Motors, Inc., d/b/a Continental Honda; H & H Continental Motors, Inc., d/b/a Continental Nissan; JCF Autos LLC, d/b/a Stevens Jersey City Ford; Jericho Turnpike Sales LLC, d/b/a Ford & Lincoln of Smithtown; Marshall Chrysler Jeep Dodge, L.L.C., d/b/a Marshall Chrysler Jeep Dodge Ram; Naperville Zoom Cars, Inc., d/b/a Continental Mazda; NV Autos, Inc., d/b/a Continental Audi; Patchogue 112 Motors, LLC, d/b/a Stevens Ford; Waconia Dodge, Inc.; Warrensburg Chrysler Dodge Jeep, L.L.C., d/b/a Warrensburg Chrysler Dodge Jeep Ram Fiat (collectively, "Dealership Counter-Defendants"), as Dealership Interim Lead Class Counsel and MDL Co-Lead Counsel, in the above-captioned matter. I respectfully submit this declaration in support of Dealership Counter-Defendants' Motion

for Summary Judgment on CDK Global, LLC's Counterclaims.

2. I have personal knowledge of the matters set forth herein, and could and would testify competently thereto if called upon to do so.

3. Attached hereto as Exhibit A is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0056450 to 552, which has been marked as Defendants' Exhibit (DX) 528.

4. Attached hereto as Exhibit B is a true and correct copy of a February 28, 2020 letter from Peggy J. Wedgworth to Britt M. Miller.

5. Attached hereto as Exhibit C is a true and correct copy of a March 4, 2020 letter from Britt M. Miller to Peggy J. Wedgworth.

6. Attached hereto as Exhibit D is a true and correct copy of Dealership Class Plaintiffs' First Set of Interrogatories to CDK Global, LLC Concerning CDK's Counterclaims, dated March 8, 2019.

7. Attached hereto as Exhibit E is a true and correct copy of CDK Global, LLC's Responses and Objections to Dealership Class Plaintiffs' First Set of Interrogatories Concerning CDK's Counterclaims, dated July 3, 2019.

8. Attached hereto as Exhibit F is a true and correct copy of the Expert Damages Report of Daniel L. Rubinfeld in the Matter of CDK Global, LLC Counterclaims re Authenticom and the Putative Dealer Class, dated August 26, 2019.

9. Attached hereto as Exhibit G is a true and correct copy of selected excerpts from the transcript of the deposition of Daniel L. Rubinfeld, dated February 7, 2020.

10. Attached hereto as Exhibit H is a true and correct copy of selected excerpts from the transcript of the deposition of Steve Anenen, dated April 10, 2019.

11. Attached hereto as Exhibit I is a true and correct copy of selected excerpts from the transcript of the deposition of Howard Gardner, dated March 6-7, 2019.

12. Attached hereto as Exhibit J is a true and correct copy of a document which has been marked as Plaintiffs' Exhibit (PX) 977.

13. Attached hereto as Exhibit K is a true and correct copy of a CDK Dealer Data Exchange ("DDX") Non-Authorized Access Report from Dealership Counter-Defendant Baystate Ford Inc., dated March 5, 2020.

14. Attached hereto as Exhibit L is a true and correct copy of a CDK DDX Non-Authorized Access Report from Dealership Counter-Defendant Continental Motors; ACA Motors, Inc., d/b/a Continental Acura; Continental Autos, Inc., d/b/a Continental Toyota; Continental Classic Motors, Inc., d/b/a Continental Autosports; 5800 Countryside, LLC, d/b/a Continental Mitsubishi; HDA Motors, Inc., d/b/a Continental Honda; H & H Continental Motors, Inc., d/b/a Continental Nissan; Naperville Zoom Cars, Inc., d/b/a Continental Mazda; NV Autos, Inc., d/b/a Continental Audi, dated May 14, 2020.

15. Attached hereto as Exhibit M is a true and correct copy of a CDK DDX Non-Authorized Access Report from Dealership Counter-Defendant JCF Autos LLC, d/b/a Stevens Jersey City Ford; Jericho Turnpike Sales LLC, d/b/a Ford & Lincoln of Smithtown; Patchogue 112 Motors, LLC, d/b/a Stevens Ford, dated March 12, 2020.

16. Attached hereto as Exhibit N is a true and correct copy of a CDK DDX Non-Authorized Access Report from Dealership Counter-Defendant Waconia Dodge, Inc., dated March 9, 2020.

17. Attached hereto as Exhibit O is a true and correct copy of a CDK DDX Non-Authorized Access Report from Dealership Counter-Defendant Cliff Harris Ford, LLC, d/b/a

Warrensburg Ford; Marshall Chrysler Jeep Dodge, L.L.C., d/b/a Marshall Chrysler Jeep Dodge Ram; Warrensburg Chrysler Dodge Jeep, L.L.C., d/b/a Warrensburg Chrysler Dodge Jeep Ram Fiat, dated March 3, 2020.

18. Attached hereto as Exhibit P is a true and correct copy of a list of 3PA Partner Program applications from CDK's website (last visited May 18, 2020).

19. Attached hereto as Exhibit Q is a true and correct copy of H.R. 2418, 54th Leg., 1st Reg. Sess. (Arizona 2019).

20. Attached hereto as Exhibit R is a true and correct copy of H.R. 3152, 80th Leg. Assemb., Reg. Sess. (Oregon 2019).

21. Attached hereto as Exhibit S is a true and correct copy of H.R. 617, 66th Leg., Reg. Sess. (Montana 2019).

22. Attached hereto as Exhibit T is a true and correct copy of H.R. 384, Gen. Assemb. Reg. Sess. (North Carolina 2019).

23. Attached hereto as Exhibit U is a true and correct copy of a document produced in this litigation Bates-stamped CDK-3122887.

24. Attached hereto as Exhibit V is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0012547 to 549 which has been marked as Plaintiffs' Exhibit (PX) 1037.

25. Attached hereto as Exhibit W is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0012649 to 652 which has been marked as Plaintiffs' Exhibit (PX) 1038.

26. Attached hereto as Exhibit X is a true and correct copy of a document produced in this litigation Bates-stamped CDK-3122936.

27. Attached hereto as Exhibit Y is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0012545 to 546 which has been marked as Plaintiffs' Exhibit (PX) 1179.

28. Attached hereto as Exhibit Z is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0804065 to 068 which has been marked as Plaintiffs' Exhibit (PX) 933.

29. Attached hereto as Exhibit AA is a true and correct copy of selected excerpts from the transcript of the deposition of Michael D. Whinston, dated January 10, 2020.

30. Attached hereto as Exhibit BB is a true and correct copy of selected excerpts from the transcript of the deposition of Robert Brockman, dated January 16, 2019.

31. Attached hereto as Exhibit CC is a true and correct copy of a document produced in this litigation Bates-stamped CDK-3120854 to 860.

32. Attached hereto as Exhibit DD is a true and correct copy of a document produced in this litigation Bates-stamped CDK-3118702 to 711.

33. Attached hereto as Exhibit EE is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2878952 to 954 which has been marked as Plaintiffs' Exhibit (PX) 835.

34. Attached hereto as Exhibit FF is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0847676 to 683.

35. Attached hereto as Exhibit GG is a true and correct copy of selected excerpts from the transcript of the deposition of Michael Noser, dated February 13, 2019.

36. Attached hereto as Exhibit HH is a true and correct copy of selected excerpts from the transcript of the deposition of Malcolm Thorne, dated February 7, 2019.

37. Attached hereto as Exhibit II is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0050564 to 565.

38. Attached hereto as Exhibit JJ is a true and correct copy of selected excerpts from the transcript of the deposition of Kevin Distelhorst, dated November 16, 2019.

39. Attached hereto as Exhibit KK is a true and correct copy of selected excerpts from the transcript of the deposition of Hubert Gerlich, dated November 28, 2019.

40. Attached hereto as Exhibit LL is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2873095 to 097 which has been marked as Plaintiffs' Exhibit (PX) 945.

41. Attached hereto as Exhibit MM is a true and correct copy of a document produced in this litigation Bates-stamped CDK-1390278 to 280 which has been marked as Plaintiffs' Exhibit (PX) 872.

42. Attached hereto as Exhibit NN is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2673485 to 492 which has been marked as Plaintiffs' Exhibit (PX) 885.

43. Attached hereto as Exhibit OO is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2981832 to 835 which has been marked as Plaintiffs' Exhibit (PX) 852.

44. Attached hereto as Exhibit PP is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0974988 to 989 which has been marked as Plaintiffs' Exhibit (PX) 875.

45. Attached hereto as Exhibit QQ is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0028163 to 177 which has been marked as

Defendants' Exhibit (DX) 523.

46. Attached hereto as Exhibit RR is a true and correct copy of a document produced in this litigation Bates-stamped CLIFF_HARRIS0001923 to 937.

47. Attached hereto as Exhibit SS is a true and correct copy of a document produced in this litigation Bates-stamped CLIFF_HARRIS0001938 to 952.

48. Attached hereto as Exhibit TT is a true and correct copy of a document produced in this litigation Bates-stamped CLIFF_HARRIS0001953 to 966.

49. Attached hereto as Exhibit UU is a true and correct copy of Expert Damages Report of Michael D. Whinston, PHD, dated November 15, 2019.

50. Attached hereto as Exhibit VV is a true and correct copy of S. Rep. No. 105-190 (1998).

51. Attached hereto as Exhibit WW is a true and correct copy of 144 Cong. Rec. H7093 (daily ed. August 4, 1998).

52. Attached hereto as Exhibit XX is a true and correct copy of 144 Cong. Rec. H7097 (daily ed. August 4, 1998).

53. Attached hereto as Exhibit YY is a true and correct copy of a document produced in this litigation Bates-stamped CDK-1468122 to 124 which has been marked as Plaintiffs' Exhibit (PX) 258.

54. Attached hereto as Exhibit ZZ is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2470059 to 062.

55. Attached hereto as Exhibit AAA is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0060014 to 015 which has been marked as Defendants' Exhibit (DX) 530.

56. Attached hereto as Exhibit BBB is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2470057 to 058.

57. Attached hereto as Exhibit CCC is a true and correct copy of the Expert Reply Report of Edward M. Stroz, dated December 19, 2019.

58. Attached hereto as Exhibit DDD is a true and correct copy of the Expert Report of Edward M. Stroz, dated August 26, 2019.

59. Attached hereto as Exhibit EEE is a true and correct copy of selected excerpts from the transcript of the deposition of Edward M. Stroz, dated January 23, 2020.

60. Attached hereto as Exhibit FFF is a true and correct copy of an April 7, 2020 email from Daniel Fenske to Matthew Kupillas.

61. Attached hereto as Exhibit GGG is a true and correct copy of selected excerpts from the transcript of the deposition of Mark Johnson, dated February 28, 2019.

62. Attached hereto as Exhibit HHH is a true and correct copy of the Expert Report of Scott Tenaglia, dated August 26, 2019.

63. Attached hereto as Exhibit III is a true and correct copy of a document produced in this litigation Bates-stamped AUTH_00092142 to 143.

64. Attached hereto as Exhibit JJJ is a true and correct copy of a document produced in this litigation Bates-stamped AUTH_00091909 to 910.

65. Attached hereto as Exhibit KKK is a true and correct copy of selected excerpts from the transcript of the deposition of Dane Brown, dated April 5, 2019.

66. Attached hereto as Exhibit LLL is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0007941 to 942 which has been marked as Defendants' Exhibit (DX) 516.

67. Attached hereto as Exhibit MMM is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0002981 to 985 which has been marked as Defendants' Exhibit (DX) 529.

68. Attached hereto as Exhibit NNN is a true and correct copy of a document produced in this litigation Bates-stamped CDK-2665782.

69. Attached hereto as Exhibit OOO is a true and correct copy of the Expert Rebuttal Report of Seth Nielson, Ph.D., dated November 15, 2019.

70. Attached hereto as Exhibit PPP is a true and correct copy of a document produced in this litigation Bates-stamped CDK-0049552 to 553.

71. Attached hereto as Exhibit QQQ is a true and correct copy of a document produced in this litigation Bates-stamped BAYSTATE0011689 to 703.

72. Attached hereto as Exhibit RRR is a true and correct copy of a document produced in this litigation Bates-stamped CHERRY_HILL0001072 to 087.

73. Attached hereto as Exhibit SSS is a true and correct copy of a document produced in this litigation Bates-stamped STEVENS0001710 to 724.

74. Attached hereto as Exhibit TTT is a true and correct copy of a document produced in this litigation Bates-stamped WACONIA0002436 to 2451.

75. Attached hereto as Exhibit UUU is a true and correct copy of a document produced in this litigation Bates-stamped CDK-3121097 to 099.

76. Attached hereto as Exhibit VVV is a true and correct copy of a document produced in this litigation Bates-stamped CDK-1326294 to 295 which has been marked as Plaintiffs' Exhibit (PX) 1573.

77. Attached hereto as Exhibit WWW is a true and correct copy of a document

produced in this litigation Bates-stamped CONTINENTAL0012870 to 873.

78. Attached hereto as Exhibit XXX is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0012855 to 858.

79. Attached hereto as Exhibit YYY is a true and correct copy of a document produced in this litigation Bates-stamped CONTINENTAL0012844 to 847.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Birmingham, Alabama, this 20th day of May, 2020.

/s/ Peggy J. Wedgworth

Peggy J. Wedgworth

CERTIFICATE OF SERVICE

I, Peggy J. Wedgworth, an attorney, hereby certify that on May 20, 2020, I caused a true and correct copy of the foregoing **DECLARATION OF PEGGY J. WEDGORTH IN SUPPORT OF DEALERSHIP COUNTER-DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON CDK GLOBAL, LLC'S COUNTERCLAIMS** to be filed and served electronically via the Court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Peggy J. Wedgworth

Peggy J. Wedgworth